IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

WP(C).No. 27670 of 2006(R)

PETITIONER:

THE KERALA FINANCIAL CORPORATION,
HEAD OFFICE, VELAYAMBALAM,
THIRUVANANTHAPURAM,
REP.BY ITS CHIEF MANAGER, ERNAKULAM.

BY ADV. SRI.U.K.RAMAKRISHNAN
SRI.P.V.LOHITHAKSHAN
SRI.T.I.DANIEL

RESPONDENTS:

1. THE CRYSTAL BISCUITS (INDIA) PVT.LTD.,
REGD. OFFICE AT VII/305, KALLINGAL HOUSE,
ANGADIPURAM-679 321, REP. BY ITS MANAGING DIRECTOR

2. THE REGIONAL PROVIDENT FUND
COMMISSIONER, EMPLOYEES PROVIDENT FUND
ORGANIZATION, SUB REGIONAL OFFICE,
BHAVISHYANIDHI BHAVAN, KOZHIKODE- 673 006.

3. THE RECOVERY OFFICER,
OFFICE OF THE RECOVERY OFFICER,
EMPLOYEES PROVIDENT FUND ORGANIZATION,
SUB REGIONAL OFFICE, BHAVISHYANIDHI BHAVAN,
P.B.NO.1806, ERANHIPALAM P.O., KOZHIKODE-673 006.

4. ABOOBACKER.K.,
S/O.MOHAMMED, KAMBALA HOUSE,
NARIPARAMBA POST,
TAVANUR, MALAPPURAM.

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC, P.F.
G.P. SHRI.BENCHAMIN PAUL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C).No. 27670/2006

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE NOTICE DTD.16.4.2001 FOR REVENUE RECOVERY.

P2. COPY OF THE LETTER DTD.21.3.2002 TO THE DISTRICT COLLECTOR.

P3. COPY OF THE NOTICE DTD.13.9.2002.

P4. COPY OF THE AUCTION NOTICE DTD.28.12.2002 BY DTY.TAHSILDAR (R.R),.

P5 COPY OF THE SALE NOTICE DTD.31.8.2006.

P6. COPY OF THE LETTER DTD.2.9.2006 TO R3 BY THE PETITIONER.

P7. COPY OF THE LETTER DTD.23.9.2006 TO THE R3.

P8. COPY OF THE LETTER DTD.6.10.2006 OF R3.

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///True copy///

P.A. to Judge.

S.SIRI JAGAN, J.

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W.P.(C).No.27670 of 2006

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Dated this the 4th day of June, 2007

J U D G M E N T

In this case the dispute is between the KFC on the one hand and the Provident Fund Organization on the other regarding who is entitled to sell the property of the 1st respondent company, in respect of which both claim charge for the amounts due to them. The KFC's claim is for more than Rs.2 crores whereas, according to the Provident Fund Organization, the amount due to it is about Rs.2.5 lakhs. The contention of the KFC is that the respondents have notified sale without mentioning the substantial building situated in the property. According to them, the Provident Fund Organization conducted the sale for a paltry sum of Rs.3,10,000/- whereas the property would fetch more than Rs.15 lakhs. In view of this situation, the learned Standing Counsel for the Provident Fund Organization submits that they have no objection in the KFC conducting the sale and out of the sale proceeds, paying the amount due to the Provident

Fund Organization since they have first charge over the property. In this context, the counsel for the KFC submits that the KFC has no objection to the said course of action except for the payment of the amount to the Provident Fund Organization. This, I do not think, is correct under law. It is settled law that for the amounts due under the Employees' Provident Funds and Miscellaneous Provisions Act, the Provident Fund Organization has a superior charge to that of the KFC. That being so, I dispose of this writ petition with the following directions:

The sale conducted by the Provident Fund Organization is set aside. The KFC itself may conduct sale as expeditiously as possible with notice to the Provident Fund Organization. After completion of the same, the KFC shall pay the amount due to the Provident Fund Organization on a demand made by them to the KFC.

Writ petition is disposed of as above.

sdk+ S.SIRI JAGAN, JUDGE